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11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 UNITED STATES OF AMERICA,
15
16 Plaintiff,

17 v.

18 OLYMPIA HEALTH CARE LLC,
ALECTO HEALTHCARE SERVICES,
19 LLC, MPT OF LOS ANGELES, L.P.,
MPT OF OLYMPIA, LLC, MPT
20 OPERATING PARTNERSHIP, L.P.,
MEDICAL PROPERTIES TRUST,
21 INC., SHERMAN/GRAYSON
HOSPITAL, LLC, ALECTO
22 HEALTHCARE SERVICES
SHERMAN, LLC, LAXMAN REDDY,
23 MATTHEW WILLIAMS, and
24 JEREMY REDIN,

25 Defendants.
26
27
28

Case No. 2:23-cv-01783-ODW-PVC

**JOINT STATUS REPORT
CONCERNING CLAIMS AGAINST
DEFENDANTS OLYMPIA
HEALTH CARE LLC, ALECTO
HEALTHCARE SERVICES LLC,
SHERMAN/GRAYSON HOSPITAL,
LLC, ALECTO HEALTHCARE
SERVICES SHERMAN, LLC,
LAXMAN REDDY, MATTHEW
WILLIAMS, AND JEREMY REDIN**

1 Plaintiff United States of America (“Plaintiff”), Defendants Olympia Health
2 Care LLC, Alecto Healthcare Services Sherman, LLC, Laxman Reddy, Matthew
3 Williams, and Jeremy Redin (collectively the “Alecto Defendants”), by and
4 through their undersigned counsel, submit this joint status report as ordered by the
5 Court (Doc. No. 30) in light of the Alecto Defendants’ insurance coverage dispute
6 and the bankruptcy filings and consequent automatic stay of this litigation against
7 Defendants Sherman/Grayson Hospital, LLC (“Sherman Hospital”) and Alecto
8 Healthcare Services LLC (“Alecto”) (collectively, the “Bankrupt Defendants”).

9 1. As previously reported, on October 20, 2023, Plaintiff dismissed its claims,
10 without prejudice, against Defendants MPT of Los Angeles, L.P., MPT of
11 Olympia, LLC, MPT Operating Partnership, L.P., and Medical Properties Trust,
12 Inc., (Doc. No. 35).

13 2. Plaintiff and the Alecto Defendants (collectively, the “Parties”) report, as
14 detailed below, that a continued stay of the litigation is warranted because of
15 (1) the Bankrupt Defendants’ ongoing bankruptcy proceedings, along with (2) the
16 Alecto Defendants’ ongoing dispute with their insurer.

17 3. With regard to the bankruptcies:

18 a. Plaintiff’s claims against the Alecto Defendants are significantly affected
19 by the Alecto and Sherman Hospital bankruptcies. The Alecto Defendants and the
20 Bankrupt Defendants filed their Answer to the Complaint on May 11, 2023, over a
21 month before Alecto and Sherman Hospital filed separate Chapter 11 bankruptcy
22 petitions on June 16, 2023, and June 23, 2023, respectively, which are pending in
23 two separate cases in the United States Bankruptcy Court for the District of
24 Delaware. While the same judge presides over both bankruptcies, the cases have
25 different U.S. trustees, and Alecto filed as a Subchapter V debtor. During
26 bankruptcy, the assets of Sherman Hospital have been sold pursuant to an order of
27 the bankruptcy court and the hospital remains in operation, with a pending motion
28 to settle claims and dismiss the bankruptcy case. Alecto also continues to operate

1 and is seeking confirmation of a plan to reorganize and emerge from bankruptcy as
2 a going concern.

3 b. While those bankruptcy proceedings continue, the Parties cannot predict
4 when they will be completed. Since the Parties' previous Joint Status Report of
5 November 7, 2023 (Doc. No. 38), the bankruptcy proceedings have progressed to
6 the point where:

7 (1) Alecto amended its initial plan for reorganization, and is now seeking
8 approval by the court on a nonconsensual basis, instead of by a solicitation of votes
9 as originally proposed. In December 2023, the Centers for Medicare & Medicaid
10 Services ("CMS") of the United States Department of Health and Human Services
11 filed a proof of claim in the bankruptcy case that totals \$29 million and includes
12 the \$12 million in damages the United States seeks in the complaint before this
13 Court. Alecto may – and reserve the right to – object to the proof of claim filed by
14 CMS and other proofs of claims filed by in the bankruptcy case. Also, the
15 bankruptcy court denied one of the largest creditor's objection to Alecto's
16 designation as a Subchapter V debtor. A hearing for approval of the plan is set for
17 March 4-5, 2024; and, the United States and at least one other large creditor are
18 expected to object to the plan on various grounds. To aid in those objections, the
19 United States and other creditors anticipate requesting discovery from Alecto. The
20 plan proposes paying creditors' claims less than five percent of amounts asserted in
21 proofs of claim. Alecto may – and reserves the right to – object to proofs of claims
22 filed in the bankruptcy case which may affect the recovery by creditors.

23 (2) The anticipated sale of Sherman Hospital's assets through the
24 bankruptcy was delayed but eventually closed on January 1, 2024. The purchaser
25 had entered into an interim management agreement in the summer of 2023 and was
26 responsible for running the hospital until the sale closed. A settlement between
27 Sherman Hospital, the purchaser, and the Official Committee of Unsecured
28 Creditors was proposed in October 2023 – which would include the dismissal of

1 the Sherman Hospital bankruptcy, but the settlement has not yet been approved by
2 the bankruptcy court; the sale, now completed, was a condition of any dismissal.
3 As in the Alecto bankruptcy, CMS filed a proof of claim in the Sherman Hospital
4 bankruptcy for \$29 million and includes the \$12 million in damages the United
5 States seeks in the complaint before this Court. Sherman Hospital may – and
6 reserves the right to – object to the proof of claim filed by CMS and other proofs of
7 claims filed by in the bankruptcy case. An omnibus hearing is scheduled for
8 February 27, 2024.

9 4. With regard to discovery in this case:

10 a. On June 23, 2023, Plaintiff filed the Parties' first stipulation to extend
11 time for the scheduling conference through September 18, 2023 (Doc. No. 22). On
12 June 26, 2023, the Court entered its Order granting the parties' stipulation for
13 continuance of the scheduling conference (Doc. No. 23). As a result, a scheduling
14 order has not been issued. Plaintiff continues to analyze and evaluate the impact of
15 the bankruptcies on its claims against the Alecto Defendants, including the effect
16 of the automatic stay on Plaintiff's ability to conduct discovery of information in
17 Alecto's custody and control, which necessarily hinders the ability to effectively
18 meet with the Parties' counsel, prepare a report to the court, and prepare for and
19 participate in a scheduling conference in court.

20 b. The Parties agree that much necessary discovery – most importantly from
21 Alecto – cannot occur without permission from the bankruptcy court. Specifically,
22 although the individual defendants Laxman Reddy, Matt Williams and Jeremy
23 Redin may have access to Alecto's or Sherman Hospital's documents for
24 conducting business, the bankruptcy stay would not allow production of Alecto's
25 or Sherman Hospital's documents in this litigation before this Court. Production of
26 documents in the bankruptcies would require the debtors to incur substantial
27 expense for attorneys and support staff. Those expenses would require approval by
28 the bankruptcy court, which at this moment cannot be ensured, and which would

1 erode the bankruptcy estate's assets of Alecto or Sherman Hospital for a potential
2 recovery by Plaintiff.

3 5. With regard to the insurance coverage issues, the Alecto Defendants and the
4 Bankrupt Defendants are involved in ongoing conversations with their insurance
5 companies about potential insurance coverage for certain of Plaintiff's claims. The
6 Parties agree that, optimally, the insurance coverage issues should be resolved
7 before a Rule 16 conference is held or scheduling order is issued. On December 5,
8 2022, the Alecto Defendants tendered the claims that the United States later
9 asserted in the Complaint against the individual defendants to their primary and
10 excess insurance carriers. With cooperation from the United States, the Alecto
11 Defendants provided a draft complaint to the primary insurance company for its
12 review and consideration on January 22, 2023.

13 Despite follow-up from the Alecto Defendants with their insurance companies,
14 the primary insurance company did not issue a coverage decision until June 15,
15 2023. The coverage letter denied coverage for the claim under the primary policy
16 and under an excess policy issued by the primary insurance company; the other
17 excess policy follows form and the excess carrier would have presumably followed
18 that coverage decision. The Alecto Defendants disagreed with the primary
19 insurance company's decision to deny coverage under any of the policies and
20 contested the denial.

21 On October 2, 2023, the primary insurance company agreed to withdraw its
22 declination of coverage, but continues to maintain a full reservation of rights
23 pending its ongoing investigation of the claim. Thus, coverage could still
24 ultimately be denied.

25 With the filing of the \$29 million CMS proof of claim in the Alecto bankruptcy,
26 the United States has informed counsel for the Alecto Defendants that the
27 additional \$17 million in claims may also be asserted against the individual
28 defendants, and may thus be subject to insurance coverage. The United States is

1 considering filing an amended complaint in this Court to cover those additional
2 claims. The Alecto Defendants have provided notice of the additional \$17 million
3 in claims to its insurance carriers and its insurance carriers are reviewing the notice
4 of additional claims and the potential for coverage under applicable insurance
5 policies.

6 The developments could help facilitate a resolution of this matter without
7 further litigation as the Parties explore the possibility for alternative dispute
8 resolution, which could ultimately facilitate a resolution of this matter while
9 respecting judicial economy. Moreover, the insurance policies at issue are eroding
10 policies, meaning insurance money spent on defense costs reduces the amount of
11 money available for potential recovery by Plaintiff. The Parties believe that
12 continuing the stay pending resolution of the bankruptcies and insurance coverage
13 dispute is the most efficient and economical method to resolve this matter at this
14 time, along with the Parties' continuing to file quarterly reports so the Court can
15 evaluate the progress of the bankruptcy and insurance dispute issues relative to the
16 prosecution and needs of this case.

17 6. Plaintiff, however, reserves the right to move to lift any stay of this case by
18 this Court and resume litigation if Plaintiff, in its sole discretion, determines that
19 resolution of the bankruptcies or the insurance coverage dispute is no longer in the
20 best interest of the United States.

21 7. This joint status report is made in good faith and not for the purpose of delay
22 or for any other improper purpose.

23 Dated: February 5, 2024

UNITED STATES OF AMERICA

24 By: /s/ John R. Kresse

25 John R. Kresse
26 Trial Attorney
United States Department of Justice

27 Attorneys for Plaintiff United States
28 of America

1
2 Dated: February 5, 2024

MICHAEL BEST & FRIEDRICH LLP

3 By: /s/ Evan S. Strassberg
4 (CA Bar No. 219336)

5 Attorneys for Defendants Olympia
6 Health Care LLC, Alecto Healthcare
7 Services, LLC, Sherman/Grayson
8 Hospital, LLC, Alecto Healthcare
9 Services Sherman, LLC, Laxman
10 Reddy, Matthew Williams, and
11 Jeremy Redin

12 **ATTESTATION**

13 In accord with Local Civil Rule 5-4.3.4(a)(2)(i), I attest that all other
14 signatories listed, and on whose behalf this filing is submitted, concur in the
15 filing's content and have authorized the filing.

16 Dated: February 5, 2024

UNITED STATES OF AMERICA

17 By: /s/ John R. Kresse

18 John R. Kresse
19 Trial Attorney
20 United States Department of Justice
21 Attorneys for Plaintiff United States
22 of America
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